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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

HENRY M. ZIMMETH,

Defendant and Appellant.

D062513

(Super. Ct. Nos. SCE308159,  
SCE311995 & SCE315324)

APPEAL from a judgment of the Superior Court of San Diego County, John M. Thompson, Judge. Affirmed.

In May 2012, Henry M. Zimmeth entered guilty pleas in three cases. In case number SCE308159, he pled guilty to inflicting corporal injury on a cohabitant (Pen. Code, § 273.5, subd. (a)), evading an officer with reckless driving (Veh. Code, § 2800.2, subd. (a)), misdemeanor vandalism (Pen. Code, § 594, subds. (a) & (b)(2)(A)), misdemeanor battery on a cohabitant (§ 243, subd. (e)(1)) and misdemeanor driving without a license (Veh. Code, § 12500, subd. (a)). In case number SCE311995, he pled

guilty to two counts of unlawful driving or taking of a vehicle (Veh. Code, § 10851, subd. (a)), two counts of receiving a stolen vehicle (Pen. Code, § 496d), two counts of burglary (Pen. Code, § 459), evading an officer with reckless driving (Veh. Code, § 2800.2, subd. (a)) and misdemeanor driving under the influence of alcohol (Veh. Code, § 23152, subd. (a)). In case number SCE315324, Zimmeth pled guilty to assault on a peace officer with a deadly weapon and by means of force likely to produce great bodily injury (Pen. Code, § 245, subd. (c)) and with personal use of a deadly weapon (Pen. Code, § 12022, subd. (b)(1)), resisting an executive officer (Pen. Code, § 69), evading an officer with reckless driving (Veh. Code, § 2800.2, subd. (a)), unlawful driving or taking of a vehicle (Veh. Code, § 10851, subd. (a)) and receiving a stolen vehicle (Pen. Code, § 496d). In each of the three cases, Zimmeth admitted having served three prior prison terms (Pen. Code, § 667.5, subd. (b)) and having suffered one strike (Pen. Code, § 667 subds. (b)-(i)), and in case number SCE315324 he admitted having suffered one prior serious felony conviction (§ 667, subd. (a)). Zimmeth admitted that he committed all of the felonies in case number SCE311995 and all of the crimes in case number SCE315324 while released on bail (Pen. Code, § 12022.1, subd. (b)).

In July 2012, the court dismissed two of the prison priors in case number SCE315324, the strike and all three prison priors in case numbers SCE308159 and SCE311995, the weapon enhancement in case number SCE315324 and the bail enhancements in case numbers SCE311995 and SCE315324. The court sentenced Zimmeth to 16 years in prison: six years for assault on a peace officer (twice the three-year lower term); consecutive 16-month terms (one-third the middle term) for resisting an

executive officer, one count of evading an officer and one count of unlawful driving or taking of a vehicle; concurrent terms for inflicting corporal injury on a cohabitant, two counts of unlawful driving or taking of a vehicle, both burglary counts, two counts of evading an officer and the misdemeanor counts; stayed terms (Pen. Code, § 654) for the three counts of receiving a stolen vehicle; one year for the prison prior and five years for the serious felony prior. Zimmeth appeals. We affirm.

### BACKGROUND

In case number SCE308159, in January 2011, Zimmeth unlawfully assaulted his live-in girlfriend, causing corporal injury resulting in a traumatic condition. He unlawfully evaded the police with reckless driving, committed vandalism, committed a domestic battery and drove without a valid license.

In case number SCE311995, in June 2011, Zimmeth took and drove someone else's car without permission, on two occasions. He unlawfully received stolen property, entered a building with intent to steal, unlawfully evaded the police with reckless driving and drove under the influence of alcohol.

In case number SCE315324, in October 2011, Zimmeth unlawfully assaulted a peace officer with a deadly weapon (a car) while the officer was performing his duties. Zimmeth unlawfully resisted an executive officer with force, evaded an officer with reckless driving, unlawfully took and drove someone else's vehicle with the intent to keep it and was unlawfully in receipt of stolen property.

## DISCUSSION

Appointed appellate counsel has filed a brief summarizing the facts and proceedings below. Counsel presents no argument for reversal, but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). Pursuant to *Anders v. California* (1967) 386 U.S. 738 (*Anders*) counsel lists as possible, but not arguable, issues: (1) whether Zimmeth was advised of the consequences of pleading guilty and of his constitutional rights, and whether he waived those rights before pleading guilty; (2) whether Zimmeth was pressured to enter his guilty plea; (3) whether there was a sufficient factual basis for the plea; (4) whether the court abused its discretion by denying Zimmeth's *Marsden* motion (*People v. Marsden* (1970) 2 Cal.3d 118); (5) whether Zimmeth received effective assistance of counsel; and (6) whether there is any basis for modifying the sentence.

We granted Zimmeth permission to file a brief on his own behalf. He has not responded. A review of the record pursuant to *Wende* and *Anders*, including the possible issues listed pursuant to *Anders*, has disclosed no reasonably arguable appellate issues. Zimmeth has been competently represented by counsel on this appeal.

## DISPOSITION

The judgment is affirmed.

AARON, J.

WE CONCUR:

HUFFMAN, Acting P. J.

McINTYRE, J.